



Ninety – Sixth Legislature – First Session – 1999  
**Introducer's Statement of Intent**  
**LB 818**

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**Chairperson:** Senator Jim Jensen  
**Committee:** Health and Human Services  
**Date of Hearing:** March 3, 1999

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

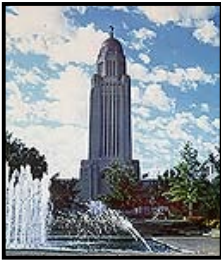
LB 818 requires criminal background checks based on fingerprints to be conducted on any person that provides care to a child or vulnerable adult. Child care provider and vulnerable adult are specifically defined in the bill but generally include a child or adult who is receiving care and services in an institutional or out of home setting. The purpose is to protect vulnerable persons from being exposed to, or under the care of, persons who have a previous criminal history involving any sort of abuse, neglect or sexual misconduct.

Currently, any caregiver's name is required to be cleared against the Nebraska Child Abuse and Neglect Central Registry and the Nebraska Adult Protective Services Registry. All applicants or employees must complete a Felony/Misdemeanor Statement which requires self-reporting of any crimes a person may have committed. Applicants must also attest that they do not engage in or have a history of behaviors which may be harmful to or endanger the health or morals of children. The state has the option of requesting additional information and conducting criminal background checks if they believe circumstances warrant such an investigation.

According to the most recent annual *Child Care Licensing Study* produced by The Children's Foundation, 43 states currently require background checks for child-care center workers and 36 states require checks in family care homes.

The National Child Protection Act passed in 1993 encouraged states to enact legislation to require FBI national fingerprint history record checks for employees and volunteers of youth serving organizations. When the Act was passed the National Foundation to Prevent Child Sexual Abuse released studies showing that 1 of 3 girls and 1 of 6 boys will be subjected to some form of sexual abuse by age 18. The studies further indicated that 46% of child molesters are non-family members who are known to the victims.

The Nebraska Legislature has previously acted to protect children and vulnerable persons by requiring criminal background checks. In 1997 Nebraska passed similar legislation requiring criminal background checks for any persons caring for the developmentally disabled. In 1996 the Legislature enacted LB 194 which required



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criminal background checks based on fingerprints on all applicants for certificates or permits to teach, counsel, supervise, or administer in elementary or secondary schools. Much of the language contained in LB 818 is based on this statute.

The bill provides that all criminal history record information is to remain confidential and may only be released upon the written authorization of the applicant or person. It also allows an employer to conditionally hire employees pending the background investigation. This provision is necessary because of the length of time it currently takes to get the information returned from the Federal Bureau of Investigation and the State Patrol, which ranges from 6 weeks to several months.

Though the agency issuing the license or permit may deny or revoke such license if a person has a felony conviction, the bill provides discretion to the agency to take several factors into consideration. All factors except #3 are contained in current statute regarding criminal background for educators. The factors include:

1. the facts and circumstances surrounding the conviction;
2. the type of offense and the sentence imposed;
3. whether the act resulting in the conviction would constitute a crime in Nebraska;
4. the date of the offense;
5. the age of the applicant at the time of the offense; and
6. the applicant's conduct and positive social contributions since the date of the offense.

The majority of care providers are kind, committed, and provide safe, caring environments for children and adults. However, given the increased number of children and adults that are placed in facilities and institutions for care, the risk of exposure to persons who may cause harm has also increased. Family members have a right to know that any person with a relevant criminal history will be prevented from being placed in a position where they may harm a family member. One of the issues that must be addressed in this process is who should shoulder the cost for such protection--the state or the families requiring care. It is up to the State of Nebraska to determine what level of protection is necessary to adequately protect our children, parents, and fellow citizens.

**Principal Introducer:**

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**Senator Donald G. Preister**